

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

PEARSON EDUCATION, INC.; CENGAGE LEARNING, INC.; and MCGRAW-HILL GLOBAL EDUCATION HOLDINGS, LLC,

Plaintiffs,

v.

HELIOSBOOKS INC.; KOLYO HRISTOV; RAMAN KANDOLA; NICHOLAS LITTLE; HAMID KHAN; SHARMA RAJESH; YK SHARMA; BHAGWAT PRAKASH; BOOSTI, LLC; MY BOOK DRIVE, INC.; OLIVER W. CHEN; SIEW HONG CHANG; BLUE ROCKET BOOKS LTD.; DONALD BOONE; LUKE BROWN; FINE LINE MEDIA LLC; PRINCE JOHNSON; PRINCE SANCHEZ; MENG ZHANG; SITAPA RUJKIETGUMJORN; WASIN RUJKIETGUMJORN; MANUJ OBEROI; PATRICK MEDLEY; JAMES NELSON; ROGGER FARBER; FBAAZ, CORP.; DERICK RADFORD; JONATHAN HINDS; DILSHAD SAIFI; ANDREW BAILEY; SAMANTHA ANDERSON; and DOES 1-10,

Defendants.

Civil Action No. 17-cv-203-DAB

**ANSWER TO THE  
AMENDED COMPLAINT**

Defendant Blue Rocket Books, Ltd. d/b/a CheapAZZBooks ("Defendant" or "BRB"), by and through its undersigned attorneys at Woods Oviatt Gilman, LLP, for its Answer to the Amended Complaint by plaintiffs Pearson Education, Inc., Cengage Learning, Inc., and McGraw-Hill Global Education Holdings, LLC (collectively, "Plaintiffs"), dated February 7, 2017 (ECF No. 28) (the "Amended Complaint") states as follows:

1. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1.

2. Defendant denies the allegations contained in Paragraph 2 to the extent those allegations pertain to BRB, and Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 to the extent those allegations pertain to the other defendants.

3. Defendant denies the allegations contained in Paragraph 3 to the extent those allegations pertain to BRB, except Defendant admits only so much of Paragraph 3 as alleges that BRB sells textbooks on Amazon.com, identifies those textbooks using the names, authors, and images, and uses Amazon's fulfillment services to ship orders. To the extent the allegations contained in Paragraph 3 pertain to Plaintiffs or to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3.

4. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4.

5. The allegations contained in Paragraph 5 set forth legal conclusions to which no response is required.

6. The allegations contained in Paragraph 6 set forth legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations contained in Paragraph 6 to the extent they pertain to BRB, except Defendant admits only so much of Paragraph 6 as alleges that BRB transacts business within New York. To the extent the allegations contained in Paragraph 6 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

7. The allegations contained in Paragraph 7 set forth legal conclusions to which no response is required.

8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8.

9. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9.

10. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10.

11. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11.

12. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12.

13. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13.

14. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14.

15. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15.

16. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16.

17. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17.

18. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18.

19. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19.

20. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20.

21. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21.

22. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22.

23. Admitted.

24. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24.

25. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25.

26. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26.

27. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27.

28. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28.

29. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29.

30. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30.

31. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 31.

32. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32.

33. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33.

34. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34.

35. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35.

36. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36.

37. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37.

38. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 38.

39. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 39.

40. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 40.

41. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41.

42. To the extent the allegations contained in Paragraph 42 pertain to BRB, Defendant denies those allegations except Defendant admits only so much of Paragraph 42 as alleges that BRB conducts business through Amazon. To the extent the allegation contained in Paragraph 42 pertain to Plaintiffs or other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

43. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43.

44. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44.

45. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 45.

46. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46.

47. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47.

48. The allegations of Paragraph 48 set forth legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48.

49. The allegations of Paragraph 49 set forth legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49.

50. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50, except that Defendant admits only so much of

Paragraph 50 as alleges that Amazon.com, Inc. ("Amazon") is an e-commerce company and that Amazon.com is a marketplace for third-party sellers to advertise, offer for sale, and sell their products or goods directly to consumers.

51. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 51.

52. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 52. Defendant avers that BRB used Amazon's Fulfillment by Amazon ("FBA") service.

53. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 53.

54. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 54.

55. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55.

56. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 56.

57. To the extent the allegations contained in Paragraph 57 pertain to BRB, Defendant denies those allegations, except Defendant admits only so much of Paragraph 57 as alleges that BRB operates a storefront on Amazon.com. To the extent the allegations contained in Paragraph 57 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

58. To the extent the allegations contained in Paragraph 58 pertain to BRB, Defendant admits only so much of Paragraph 58 that alleges, at subpart (j), that BRB operates a

storefront on Amazon.com under the name CheapAZZBooks. To the extent the allegations contained in Paragraph 58 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to truth of those allegations.

59. To the extent the allegations contained in Paragraph 59 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 59 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to truth of those allegations.

60. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 60.

61. To the extent the allegations contained in Paragraph 61 pertain to BRB, Defendant admits only so much of Paragraph 61 as alleges that BRB utilizes Amazon's FBA service. To the extent the allegations contained in Paragraph 61 pertain to Amazon, Plaintiffs or the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

62. To the extent the allegations contained in Paragraph 62 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 62 pertain to Amazon, Plaintiffs or the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

63. To the extent the allegations contained in Paragraph 63 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 63 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

64. To the extent the allegations contained in Paragraph 64 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 64 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

65. To the extent the allegations contained in Paragraph 65 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 65 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

66. To the extent the allegations contained in Paragraph 66 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 66 pertain to the other defendants or "resellers," Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

67. To the extent the allegations contained in Paragraph 67 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 67 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

68. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 68. Defendant avers that it did not sell "Counterfeit Books."

69. To the extent the allegations contained in Paragraph 69 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 69 pertain to Plaintiffs or the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

**FIRST CLAIM FOR RELIEF**  
**Copyright Infringement Under 17 U.S.C. §§ 101, et seq.**

70. In response to the allegations contained in Paragraph 70, Defendant incorporates the responses set forth above as if fully set forth herein.

71. The allegations contained in Paragraph 71 set forth legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 71.

72. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 72.

73. To the extent the allegations contained in Paragraph 73 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 73 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

74. To the extent the allegations contained in Paragraph 74 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 74 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

75. To the extent the allegations contained in Paragraph 75 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 75 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

76. To the extent the allegations contained in Paragraph 76 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 76

pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

**SECOND CLAIM FOR RELIEF**  
**Secondary Copyright Infringement Under 17 U.S.C. §§ 101, *et seq.***

77. In response to the allegations contained in Paragraph 77, Defendant incorporates the responses set forth above as if fully set forth herein.

78. The allegations contained in Paragraph 78 set forth legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 78.

79. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 79.

80. To the extent the allegations contained in Paragraph 80 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 80 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

81. To the extent the allegations contained in Paragraph 81 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 81 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

82. To the extent the allegations contained in Paragraph 82 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 82

pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

83. To the extent the allegations contained in Paragraph 83 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 83 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

**THIRD CLAIM FOR RELIEF**  
**Infringement of Federally-Registered Trademarks Under 15 U.S.C. § 1114**

84. In response to the allegations contained in Paragraph 84, Defendant incorporates the responses set forth above as if fully set forth herein.

85. The allegations contained in Paragraph 85 set forth legal conclusions to which no response is required.

86. To the extent the allegations contained in Paragraph 86 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 86 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

87. To the extent the allegations contained in Paragraph 87 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 87 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

88. The allegations contained in Paragraph 88 set forth legal conclusions to which no response is required. To the extent a response is required, and to the extent the allegations contained in Paragraph 88 pertain to BRB, Defendant denies those allegations. To the extent the

allegations contained in Paragraph 88 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

89. To the extent the allegations contained in Paragraph 89 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 89 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

90. To the extent the allegations contained in Paragraph 90 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 90 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

**FOURTH CLAIM FOR RELIEF**  
**Trademark Counterfeiting Under 15 U.S.C. § 1114(1)(a)**

91. In response to the allegations contained in Paragraph 91, Defendant incorporates the responses set forth above as if fully set forth herein.

92. To the extent the allegations contained in Paragraph 92 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 92 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

93. To the extent the allegations contained in Paragraph 93 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 93 pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

94. To the extent the allegations contained in Paragraph 94 pertain to BRB, Defendant denies those allegations. To the extent the allegations contained in Paragraph 94

pertain to the other defendants, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

**DEFENDANT'S GENERAL DENIAL**

95. Defendant further states that any allegations in the Amended Complaint not expressly admitted herein are denied.

96. Defendant denies that Plaintiff is entitled to the relief set forth in its prayer for judgment against Defendant.

**AFFIRMATIVE DEFENSES**

Defendant sets forth the following defenses to apprise Plaintiffs of certain potentially applicable defenses. By listing any matter as an affirmative defense, Defendant does not assume the burden of proof in any matter upon which Plaintiffs bear the burden of proof under applicable law. Defendant specifically reserves the right to add, amend and/or withdraw any affirmative defense as continuing investigation and discovery in this matter may dictate.

**FIRST AFFIRMATIVE DEFENSE**

**Failure To State A Claim Upon Which Relief May Be Granted**

97. Plaintiffs' claims may be barred, in whole or in part, to the extent Plaintiffs' Amended Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

**Failure To Set Forth Facts Which Give Rise To A Claim**

98. Plaintiffs' claims may be barred, in whole or in part, to the extent Plaintiffs' Amended Complaint fails to set forth facts which gives rise to a claim against Defendant.

**THIRD AFFIRMATIVE DEFENSE**

**Waiver, Estoppel and Unclean Hands**

99. Plaintiffs' claims may be barred, in whole or in part, by the doctrines of waiver, estoppel and/or unclean hands.

**FOURTH AFFIRMATIVE DEFENSE**  
**Mitigation Of Damages**

100. Plaintiffs' claims may be barred, in whole or in part, due to Plaintiffs' failure to mitigate, minimize or avoid its alleged harm.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant prays for judgment in its favor and against Plaintiffs as follows:

- A. Ordering that Plaintiffs take nothing by way of their Amended Complaint or any of the claims for relief alleged therein;
- B. Dismissing with prejudice the Plaintiffs' Amended Complaint and entering final judgment in favor of Defendant on said pleadings;
- C. Awarding Defendant its costs and reasonable attorneys' fees in this action to the fullest extent permitted by law; and
- D. Awarding Defendant such other and further relief as the Court may deem just and proper.

Dated: February 28, 2017  
Rochester, New York

WOODS OVIATT GILMAN, LLP

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